



FH

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

---

In the Matter of

[REDACTED]  
[REDACTED]  
c/o [REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: MPA - 175643

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed on July 18, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability regarding Medical Assistance (MA), a hearing was held on September 6, 2016, by telephone.

The issue for determination is whether the Department erred in its denial of the prior authorization request for a sit-to-stand lift and gait trainer in PA # [REDACTED].

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
c/o [REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, WI 53703

By: Kristin Derenne, DPT (in writing)  
Division of Health Care Access and Accountability  
PO Box 309  
Madison, WI 53701-0309

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # ) is a resident of Rock County.

2. On May 23, 2016 the Department received a PA request for a sit-to-stand lift and gait trainer in PA # [REDACTED]
3. The Department denied the request by notice dated June 21, 2016.
4. Petitioner appealed.

### **DISCUSSION**

The Office of the Inspector General (OIG) may only reimburse providers for medically necessary and appropriate health care services and equipment listed in Wis. Stat. §§49.46(2) and 49.47(6)(a), as implemented by Wis. Admin. Code ch. DHS 107. Some services and equipment are covered if a prior authorization request is submitted and approved by the OIG in advance of receiving the service. The MA program never covers some services and equipment. The Wisconsin Administrative Code provides for criteria to be followed by the MA program when reviewing requests for prior authorization. The criteria are as follows:

(e) *Departmental review criteria.* In determining whether to approve or disapprove a request for prior authorization, the department shall consider:

1. The medical necessity of the service;
2. The appropriateness of the service;
3. The cost of the service;
4. The frequency of furnishing the service;
5. The quality and timeliness of the service;
6. The extent to which less expensive alternatives are available;
7. The effective and appropriate use of available services;
8. The misutilization practices of providers and recipients;
9. The limitations imposed by pertinent federal or state statutes, rules, regulations or interpretations, including Medicare, or private insurance guidelines;
10. The need to ensure that there is close professional scrutiny for care which is of unacceptable quality;
11. The flagrant or continuing disregard of established state and federal policies, standards, fees, or procedures; and
12. The professional acceptability of unproven or experimental care, as determined by consultants to the department.

Wis. Admin. Code §DHS 107.02(3)(e).

Durable medical equipment is defined as “equipment which can withstand repeated use, is primarily used for medical purposes, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.” Wis. Admin. Code §DHS 101.03(50).

“Medically necessary” is defined as a MA service under ch. DHS 107 that is:

- (a) Required to prevent, identify or treat a recipient’s illness, injury or disability; and
- (b) Meets the following standards:
  1. Is consistent with the recipient’s symptoms or with prevention, diagnosis or treatment of the recipient’s illness, injury or disability;

2. Is provided consistent with standards of acceptable quality of care applicable to the type of service, the type of provider and the setting in which the service is provided;
3. Is appropriate with regard to generally accepted standards of medical practice;
4. Is not medically contraindicated with regard to the recipient's diagnoses, the recipient's symptoms or other medically necessary services being provided to the recipient;
5. Is of proven medical value or usefulness and, consistent with s. DHS 107.035, is not experimental in nature;
6. Is not duplicative with respect to other services being provided to the recipient;
7. Is not solely for the convenience of the recipient, the recipient's family or a provider;
8. With respect to prior authorization of a service and to other prospective coverage determinations made by the department, is cost-effective compared to an alternative medically necessary service which is reasonably accessible to the recipient; and
9. Is the most appropriate supply or level of service that can safely and effectively be provided to the recipient.

Wis. Adm. Code § DHS 101.03(96m).

In the case at hand, the Department explains that the documentation does not support the need or appropriateness of the requested equipment in petitioner's case.

At hearing, the provider did not appear. Petitioner did not have any additional documentation to submit from provider. It is clear to me that the PA request documentation submitted by the provider to the Department does not come close to demonstrating medical necessity. Petitioner explained that she is getting older and petitioner has gained a lot of weight and it is difficult for her to move petitioner.

The Department argued that a certain type of this equipment is often a permitted expense but the one requested is a different model and type from the type of lift that may be covered by ForwardHealth. The requested model is also a different model than what petitioner has used elsewhere in the past. Petitioner's mother did not explain why her provider requested the model it requested. The lack of explanation from an informed witness was critical. It is the provider's burden to demonstrate medical necessity in the case of a PA request. Clearly, the PA request did not document an appropriate use of this item or medical necessity and ForwardHealth was correct to deny it.

The petitioner may be well-served by sharing the Department's August 2, 2016 letter with her provider to determine whether another item may meet the standards set by the Department, or whether the provider may be able to provide written support for the requested item in a new PA request.

### **CONCLUSIONS OF LAW**

The Department did not err in its denial of the PA request as the provider did not demonstrate medical necessity or appropriateness.

**THEREFORE, it is**

**ORDERED**

That this appeal is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 10th day of October, 2016

\s \_\_\_\_\_  
John P. Tedesco  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 10, 2016.

Division of Health Care Access and Accountability